

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

STEVEN THARP, Individually and On Behalf
of All Others Similarly Situated,

Plaintiff,

v.

ACACIA COMMUNICATIONS, INC.,
MURUGESAN SHANMUGARAJ, and JOHN
F. GAVIN,

Defendants.

No. 17-cv-11504-WGY
(LEAD DOCKET)

**STIPULATION AND ~~PROPOSED~~
ORDER FOR APPOINTMENT OF
LEAD DERIVATIVE PLAINTIFFS,
APPROVAL OF LEAD DERIVATIVE
COUNSEL, AND SETTING BRIEFING
SCHEDULE**

KAREN COLGAN, Derivatively on Behalf of
ACACIA COMMUNICATIONS, INC.,

Plaintiff,

v.

MURUGESAN SHANMUGARAJ, BENNY P.
MIKKELSEN, JOHN F. GAVIN, FRANCIS J.
MURPHY, BHUPENDRA C. SHAH,
CHRISTIAN J. RASMUSSEN, MEHRDAD
GIVEHCHI, VINCENT T. ROCHE, STAN J.
REISS, ERIC A. SWANSON, PETER Y.
CHUNG, and JOHN RITCHIE,

Defendants,

and

ACACIA COMMUNICATIONS, INC.,

Nominal Defendant.

No. 17-cv-12350-WGY

[Caption continued on next page]

JONATHAN WONG, Derivatively on Behalf of
ACACIA COMMUNICATIONS, INC.,

Plaintiff,

v.

MURUGESAN SHANMUGARAJ, JOHN F.
GAVIN, BENNY P. MIKKELSEN, FRANCIS
J. MURPHY, BHUPENDRA C. SHAH,
CHRISTIAN J. RASMUSSEN, MEHRDAD
GIVEHCHI, ERIC A. SWANSON, STAN J.
REISS, PETER Y. CHUNG, JOHN RITCHIE,
and VINCENT T. ROCHE,

Defendants,

and

ACACIA COMMUNICATIONS, INC.,

Nominal Defendant.

No. 17-cv-12550-WGY

GLADE DENNIS, Derivatively on Behalf of
ACACIA COMMUNICATIONS, INC.,

Plaintiff,

v.

MURUGESAN SHANMUGARAJ, BENNY P.
MIKKELSEN, JOHN F. GAVIN, FRANCIS J.
MURPHY, BHUPENDRA C. SHAH,
CHRISTIAN J. RASMUSSEN, MEHRDAD
GIVEHCHI, VINCENT T. ROCHE, STAN J.
REISS, ERIC A. SWANSON, PETER Y.
CHUNG, and JOHN RITCHIE,

Defendants,

and

ACACIA COMMUNICATIONS, INC.,

Nominal Defendant.

No. 17-cv-12571-WGY

[Caption continued on next page]

SANDRA FARAH-FRANCO and RUSSELL
GOURLEY, Derivatively on Behalf of Nominal
Defendant ACACIA COMMUNICATIONS,
INC.,

Plaintiffs,

v.

MURUGESAN SHANMUGARAJ, BENNY P.
MIKKELSEN, PETER Y. CHUNG, STAN J.
REISS, JOHN RITCHIE, VINCENT T.
ROCHE, ERIC A. SWANSON, JOHN F.
GAVIN, MEHRDAD GIVEHCHI, FRANCIS J.
MURPHY, CHRISTIAN J. RASMUSSEN, and
BHUPENDRA C. SHAH,

Defendants,

and

ACACIA COMMUNICATIONS, INC.,

Nominal Defendant.

No. 1:18-cv-10465-WGY

Plaintiffs Karen Colgan (“Colgan”), Jonathan Wong (“Wong”), Sandra Farah-Franco (“Farah-Franco”), and Russell Gourley (“Gourley”) (collectively, “Plaintiffs”), by and through their respective counsel, for good cause, hereby stipulate as follows:

WHEREAS, (a) on November 29, 2017, Plaintiff Colgan commenced the above-captioned derivative action (No. 17-cv-12350-WGY); (b) on December 22, 2017, Plaintiff Wong commenced the above-captioned derivative action (No. 17-cv-12550-WGY); (c) on December 28, 2017, Plaintiff Glade Dennis (“Dennis”) commenced the above-captioned derivative action (No. 17-cv-12571-WGY);¹ and (d) on March 13, 2018, Plaintiffs Farah-Franco and Gourley commenced the above-captioned derivative action (No. 18-cv-10465-WGY) (collectively, the “Complaints” or “Derivative Actions”);

WHEREAS, the Complaints variously assert claims derivatively on behalf of Acacia Communications, Inc. (“Acacia”) against the named defendants for violation of §14(a) of the Securities Exchange Act of 1934, breach of fiduciary duty, waste of corporate assets, and/or unjust enrichment, the *Wong* complaint also asserts claims for abuse of control and gross mismanagement, and the *Farah-Franco/Gourley* complaint also asserts a claim for violation of §29(b) of the Securities Exchange Act;

WHEREAS, on November 30, 2017, December 26, 2017, December 29, 2017, and March 21, 2018, respectively, the Court consolidated the four pending Derivative Actions with and into a consolidated securities class action entitled *Tharp v. Acacia Commc’ns, Inc.*, No. 17-cv-11504-WGY;

¹ Plaintiff Dennis no longer has standing to pursue his action and a request for voluntary dismissal, as to Plaintiff Dennis only, is forthcoming.

WHEREAS, on March 13, 2018, Plaintiffs Farah-Franco and Gourley filed a motion to consolidate the Derivative Actions and for appointment of lead plaintiffs and lead counsel for the Derivative Actions;

WHEREAS, on March 27, 2018, Plaintiffs Colgan, Wong, and Dennis filed (i) an opposition to the Farah-Franco/Gourley motion; and (ii) a motion for appointment of co-lead counsel for the Derivative Actions;

WHEREAS, by order dated April 6, 2018, the Court approved the parties' stipulation allowing the Defendants thirty (30) days from the filing of a consolidated amended derivative complaint, or the designation of a now-pending complaint as the operative complaint, to answer or otherwise respond to the operative complaint;

WHEREAS, during a status conference held on April 9, 2018, the Court ordered counsel for Plaintiffs to meet and confer and then notify the Court as to the status of appointment of lead plaintiff in the Derivative Actions by April 19, 2018;

WHEREAS, having met and conferred through their respective counsel, Plaintiffs hereby request that the Court appoint Colgan, Farah-Franco, and Gourley as Co-Lead Plaintiffs for the Derivative Actions and approve their selection of Scott+Scott Attorneys at Law LLP and Robbins Arroyo LLP as Co-Lead Counsel for the Derivative Actions; and

WHEREAS, having met and conferred through their respective counsel, the parties have agreed to the following schedule for the filing of a consolidated amended derivative complaint and for briefing of Defendants' anticipated motion to dismiss;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, SUBJECT TO APPROVAL BY THIS COURT, by the Plaintiffs, and by the Defendants only as to ¶¶3-6 below, through their respective counsel of record, as follows:

1. Colgan, Farah-Franco, and Gourley are appointed as Co-Lead Plaintiffs to represent the interests of shareholders through the Derivative Actions.
2. Scott+Scott Attorneys at Law LLP and Robbins Arroyo LLP are appointed Co-Lead Counsel for the Derivative Actions.
3. Co-Lead Plaintiffs shall file a consolidated amended derivative complaint within thirty (30) days of the Court's approval of this Stipulation;
4. Defendants shall move to dismiss, answer, or otherwise respond to the consolidated amended derivative complaint within thirty (30) days after Co-Lead Plaintiffs file such complaint with the Court;
5. Co-Lead Plaintiffs shall file any opposition papers to any motion to dismiss filed by Defendants within thirty (30) days after Defendants file their motion to dismiss;
6. Defendants shall file any reply papers within fourteen (14) days after Co-Lead Plaintiffs file their opposition papers.

IT IS SO STIPULATED.

DATED: April 20, 2018

SCOTT+SCOTT ATTORNEYS AT LAW LLP

/s/ Geoffrey M. Johnson
GEOFFREY M. JOHNSON (*pro hac vice*)
12434 Cedar Road, Suite 12
Cleveland Heights, OH 44118
Telephone: (216) 229-6088
Facsimile: (860) 537-4432
gjohnson@scott-scott.com

AMANDA F. LAWRENCE (BBO# 568737)
DAVID R. SCOTT
SCOTT+SCOTT ATTORNEYS AT LAW LLP
156 South Main Street
P.O. Box 192
Colchester, CT 06415
Telephone: (860) 537-5537
Facsimile: (860) 537-4432
alawrence@scott-scott.com
david.scott@scott-scott.com

JOE PETTIGREW
SCOTT+SCOTT ATTORNEYS AT LAW LLP
600 W. Broadway, Suite 3300
San Diego, CA 92101
Telephone: (619) 233-4565
Facsimile: (619) 233-0508
jpettigrew@scott-scott.com

Co-Lead Counsel for Derivative Plaintiffs

DATED: April 20, 2018

ROBBINS ARROYO LLP

/s/ Steven R. Wedeking
STEVEN R. WEDEKING (pro hac vice)
BRIAN J. ROBBINS
FELIPE J. ARROYO (pro hac vice)
600 B Street, Suite 1900
San Diego, CA 92101
Telephone: (619) 525-3990
Facsimile: (619) 525-3991
brobbins@robbinsarroyo.com
farroyo@robbinsarroyo.com
swedeking@robbinsarroyo.com

Co-Lead Counsel for Derivative Plaintiffs

DATED: April 20, 2018

THE BROWN LAW FIRM, P.C.

/s/ Matthew H. Lee
MATTHEW H. LEE
TIMOTHY W. BROWN
240 Townsend Square
Oyster Bay, NY 11771
Telephone: (516) 922-5427
Facsimile: (516) 344-6204
mlee@thebrownlawfirm.net
tbrown@thebrownlawfirm.net

THE ROSEN LAW FIRM, P.A.
JOSH BAKER
PHILLIP KIM
275 Madison Avenue, 34th Floor
New York, NY 10016
Telephone: (212) 686-1060
Facsimile: (212) 202-3827
jbaker@rosenlegal.com
pkim@rosenlegal.com

Counsel for Plaintiff Wong

DATED: April 20, 2018

**WILMER CUTLER PICKERING
HALE AND DORR LLP**

/s/ Daniel W. Halston

Daniel W. Halston (BBO # 548692)

Peter J. Kolovos (BBO # 632984)

Ian Coghill (BBO # 685754)

Erika M. Schutzman (BBO # 696241)

60 State Street

Boston, MA 02109

Telephone: (617) 526-6000

Facsimile: (617) 526-5000

daniel.halston@wilmerhale.com

peter.kolovos@wilmerhale.com

ian.coghill@wilmerhale.com

erika.schutzman@wilmerhale.com

*Attorneys for Acacia Communications, Inc.,
Murugesan Shanmugaraj, John F. Gavin, Benny P.
Mikkelsen, Francis J. Murphy, Bhupendra C. Shah,
Christian J. Rasmussen, Mehrdad Givvehchi, Eric A.
Swanson, Stan J. Reiss, Peter Y. Chung,
John Ritchie, and Vincent T. Roche*

IT IS SO ORDERED.

DATED: April 30, 2018

William G. Young
HON. JUDGE WILLIAM G. YOUNG
UNITED STATES DISTRICT JUDGE